

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 23733 of 2004

Between:

S. Baba Fakruddin, S/o Jainulla,
Khaderabad Village, Proddatur, Kadapa District.

..... PETITIONER

AND

- 1 The Secretary, Regional Transport Authority, Kadapa.
- 2 The Motor Vehicle Inspector, Proddatur, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd Respondent in seizing the petitioner's 7 Seater Auto bearing registration No. AP 04/T 7098 under Check, Report No. 2286259, dt.8-12-2004 as illegal and arbitrary and consequently direct the Respondents herein to release the 7 Seater Auto bearing registration No. AP 04/T 7098 seized under Check Report No. 2286259, dt. 8-12-2004 in favour of the petitioner and pass such other or further order or orders.

Counsel for the Petitioner:MR.ARIFULLA

Counsel for the Respondents: GP FOR TRANSPORT

The Court at the stage of admission made the following :

ORDER:

This Writ Petition is filed declaring the action of the second respondent in seizing the vehicle of the petitioner bearing registration No.AP 04/T 7098 under check Report No.2286259 dated 08-12-2004 as illegal and arbitrary.

Learned counsel for the petitioner contended that the petitioner was not carrying any passengers in the Auto and the Auto was being taken from the garage for the purpose of repairs and, therefore, he prays to release the vehicle.

On the other hand, the learned Government Pleader for Transport contended that a show-cause notice was issued to the petitioner and the petitioner without any permit, registration certificate, insurance coverage and fitness certificate is plying the vehicle and, therefore, he is liable to pay an amount of Rs.21,000/- towards taxes and penalty.

It is not in dispute that the petitioner's vehicle was seized on 08-12-2004 under check report No.2286259 for certain violations of the Motor Vehicles Act. Thereafter, the petitioner made an application to the first respondent for grant of interim custody on 13-12-2004 and no orders have been passed by the first respondent. Whether the petitioner is liable to pay any tax and whether he violated any Provisions of the Motor Vehicles Act have to be decided by the competent Authority after giving reasonable opportunity to the petitioner and as a matter of fact, a show-cause notice was also issued to the petitioner by the respondents. After explanation, appropriate decision has to be taken by the respondents. Till then, it is not desirable to keep the vehicle idle exposing to sun and rain causing damage to the vehicle. Therefore, interim custody of the vehicle bearing No.AP 04/T 7098 shall be given to the petitioner on depositing an amount of Rs.5,000/- (Rupees five thousand only) with the following conditions:

(a) that the petitioner shall not alienate or transfer the vehicle;

(b) that the petitioner shall produce the vehicle as and when required by

the competent Authority; and

(c) that the petitioner shall pay the taxes, if any, due as on today.

With the above observation, the Writ Petition is disposed of.

22-12-2004

Prv

To

- 1 The Secretary, Regional Transport Authority, Kadapa.
- 2 The Motor Vehicle Inspector, Proddatur, Kadapa District.
- 3 2CCs to GP for Transport, High Court Buildings,
Hyderabad (OUT).
- 4 Two CD copies